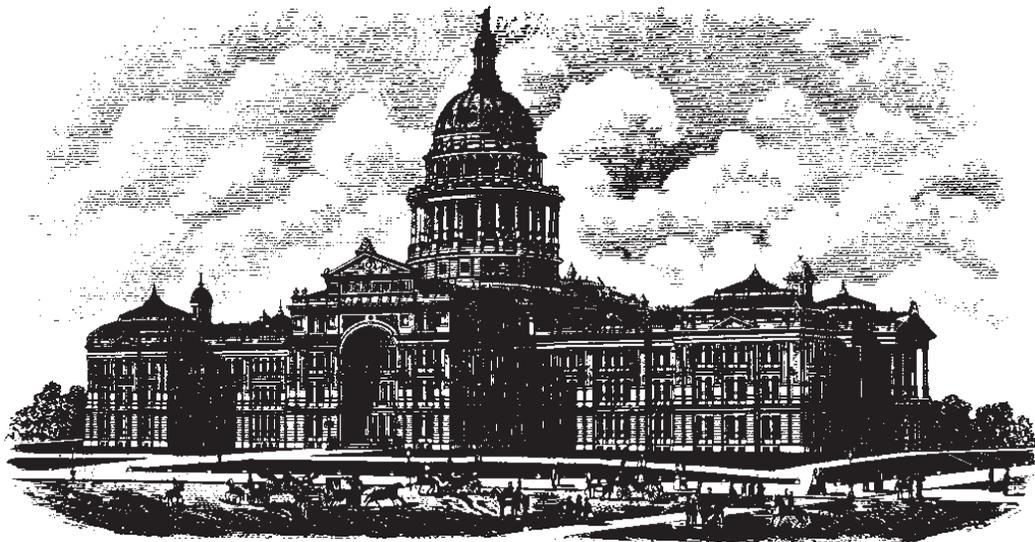


Sunset Advisory Commission



TEXAS STATE CAPITOL BUILDING

E.E. Davis Architect

Texas Commission for the Deaf and Hard of Hearing



Staff Report

1998

SUNSET ADVISORY COMMISSION

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In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies. The 10-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years. The Commission questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency's operations and activities. The Commission seeks public input through hearings on every agency under Sunset review and recommends actions on each agency to the full Legislature. In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

**TEXAS COMMISSION FOR THE
DEAF AND HARD OF HEARING**

SUNSET STAFF REPORT

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EXECUTIVE SUMMARY

Executive Summary

The needs of Texas' deaf population received formal attention in 1971 when the Legislature created what is now the Texas Commission for the Deaf and Hard of Hearing. The agency's primary focus is on ensuring communication access for the 1.7 million citizens who are deaf or hard of hearing. The agency contracts with 23 Councils for the Deaf to provide services across the state. In fiscal year 1997, the agency's Councils served more than 7,200 clients. The agency also regulates people working as interpreters for the deaf. In fiscal year 1997, 1,326 licensed interpreters operated in Texas. In addition, the agency educates the public about federal requirements of the Americans with Disabilities Act to support reasonable communication access for people who are deaf or hard of hearing. The agency is funded almost exclusively by state funds for a total of approximately \$1.4 million in fiscal year 1997. The agency does not receive any federal funds. Including its Executive Director, the agency employs nine staff, all located in the Austin main office.

Since the agency does not deliver many services directly to its clients, the agency has two general activities, contract monitoring and purchase of interpreter services. The Sunset review focused on these two areas, compliance with State contracting requirements, and the statutes governing interpreter regulation.

1. Increase the Agency's Flexibility to Obtain the Best Value for Interpreter Services.

- The Commission does not have a fee schedule for payment to interpreters as required by statute, but instead has established a maximum hourly rate to pay for interpreter services.
- The maximum price adopted by the agency has become the standard price charged by the agency's contractors, regardless of the level of service provided.
- The State is not getting best value for interpreter services in Texas. Other states with large populations of deaf and hard of hearing persons competitively procure interpreter services.

Recommendation

- **Remove the provision requiring the Commission to establish a schedule regulating the cost of interpreter services.**

- **Repeal the Commission's rule establishing a maximum hourly rate for interpreter services.**

- **Include interpreter fees in contracts when negotiating with Councils for interpreter services.**

2. Ensure Quality Services for Agency Clients Through Improved Contract Monitoring.

- The lack of competition between Councils increases the agency's need to adequately monitor contractor performance.
- Agency efforts to improve contract monitoring, need further development, specifically the refinement of contractor monitoring tools, and increased focus on contract performance measures.

Recommendation

- **Require the agency to develop, in policy, a risk-based approach for contract monitoring.**
- **The agency should develop, by January 1, 2000, contract tools tied to contract provisions, and a schedule for conducting on-site monitoring based on risk-assessment.**

3. Decide on Continuation of the Texas Commission for the Deaf and Hard of Hearing as a Separate Agency After Completion of Sunset Reviews of All Health and Human Services Agencies.

- Texas has a continuing need for the services provided by the Commission, and while the agency's functions should continue, organizational alternatives exist that should be explored.

Recommendation

- **Decide on continuation of the Texas Commission for the Deaf and Hard of Hearing as a separate agency after completion of Sunset reviews of all health and human services agencies.**

Fiscal Impact Summary

These recommendations should result in a savings to the State. However, these savings cannot be specifically determined for this report. The recommendations can be implemented within the existing resources of the agency.

APPROACH AND RESULTS

Approach and Results

Approach

The Texas Commission for the Deaf and Hard of Hearing has served as the primary state agency to deliver services to 1.7 million Texans who are deaf or hard of hearing. These services are provided, under agency contract, by 23 Councils for the Deaf located throughout the state. In fiscal year 1997, the agency's Councils served more than 7,200 clients. In addition, the agency also regulates people working as interpreters for the deaf. In fiscal year 1997, 1,326 licensed interpreters operated in Texas.

The agency's primary focus is on ensuring communication access for Texans who are deaf or hard of hearing. To accomplish this objective, the agency provides funds to the 23 Councils for interpreter services. In addition, the agency educates the public about federal requirements by the Americans with Disabilities Act to provide reasonable communication access to people who are deaf or hard of hearing.

The agency also funds Senior Citizens Programs through the Councils to provide outreach to elderly people who are deaf or hard of hearing to make them aware of services and adaptive equipment that would improve their quality of life. The Information and Referral Programs, also funded by the agency, assist the Councils in providing information about services and adaptive equipment to people who are deaf or hard of hearing, and their families and friends.

Since the agency does not deliver many services directly to its consumers, the agency has two general activities, contract monitoring and purchase of interpreter services. As a result, the Sunset review focused on these two areas. Specifically, the review examined the agency's contracts to determine whether the agency complied with established state policies regarding contracts, such as those found in the General Appropriations Act. In addition, the review examined the agency's statute with regard to interpreter regulation to determine if the agency was encumbered by out-of-date or misleading provisions.

The Sunset review focused on agency contract monitoring and purchase of interpreter services.

Sunset staff considered the possibility of merging the agency with other state agencies that serve people with disabilities. The small size of the agency and its administrative attachment to the Texas Commission for the Blind makes this option a necessary consideration, but a recommendation in this area has been postponed until all health and human service agency functions are evaluated for possible reorganization.

Review Activities

In conducting the review of TCDHH, Sunset staff:

- worked extensively with agency staff at TCDHH;
- reviewed agency documents and reports, including the agency's Self-Evaluation Report, strategic plans, operating plans, internal audits, and case files;
- met with Legislative Budget Board staff;
- interviewed State Auditor's Office staff by telephone;
- worked with agency staff from the Texas Commission for the Blind regarding administrative attachment;
- researched agencies in other states with common functions;
- interviewed members of national organizations for people who are deaf or hard of hearing;
- reviewed state statutes, federal law, and reports by the State Auditor's Office and Legislative Budget Board;
- attended public meetings of the governing Commission (Board);
- visited agency Council offices and discussed agency contracting practices, interpreter payment structure, and services to people who are deaf or hard of hearing in Austin, Dallas and Ft. Worth;
- interviewed various other Councils by telephone; and
- met with interest group representatives.

The review looked at how the agency purchases services for clients, especially interpreter services.

Results

The first area the Sunset review examined relates to how the agency pays for interpreter services in the state. Secondly, Sunset staff examined the effectiveness of the agency's service delivery. Since the agency contracts with its Councils for services, the review examined the agency's contract monitoring activities.

Interpreter Services Purchasing — The review found that the agency’s statutory obligations relating to the purchase of interpreter services was complicated by a confusing and unnecessary provision in the statute. This provision requires the agency to develop a fee schedule for interpreters. However, the method used by the agency to comply with this provision prevents the agency from basing its payment to Councils for interpreter services according to the level of interpreter provided. **Issue 1** would remove this provision and allow the agency to base payment for interpreter services on the level of service provided to the agency by its Councils.

Contract Monitoring — The review found that the agency’s contracts contain many of the provisions required by the State’s contracting policies, as outlined in documents such as the General Appropriations Act. However, the agency should develop formal policies for auditing its Councils. In addition, the agency should ensure that contract monitoring tools are tied to contract performance measures to hold contractors accountable to best performance. **Issue 2** would require the agency to establish a formal risk-based method to identify which Councils to audit each year, and to improve contract monitoring tools.

Recommendations

1. Increase the Agency’s Flexibility to Obtain the Best Value for Interpreter Services.
2. Ensure Quality Services for Agency Clients Through Improved Contract Monitoring.
3. Decide on Continuation of the Texas Commission for the Deaf and Hard of Hearing as a Separate Agency After Completion of Sunset Reviews of All Health and Human Service Agencies.

Fiscal Impact

These recommendations should result in savings to the State. However, these savings cannot be specifically determined for this report. Savings associated with Issue 1 will depend on the number and skill level of interpreters used by the agency’s Councils. Issue 2 would also result in savings to the State, however, the savings will depend on the number of contracts and the types of services for which the agency contracts. Any savings resulting from these two recommendations would be available for additional services by the agency or its Councils.

The agency's contract monitoring could benefit from a risk-based approach to guide on-site visits.

ISSUES

Issue 1

Increase the Agency's Flexibility to Obtain the Best Value for Interpreter Services.

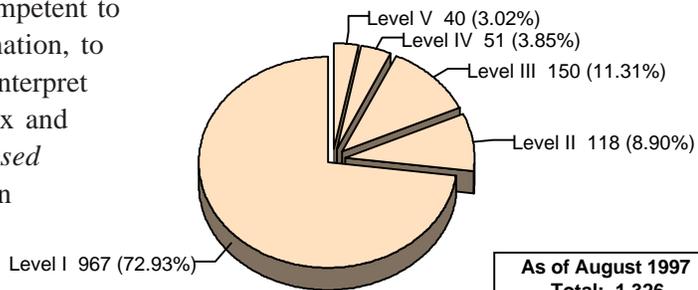


Background

One of the primary goals of the Texas Commission for the Deaf and Hard of Hearing is to help provide communication access for the 500,000 people who are deaf in Texas. The agency accomplishes this task through contracts with 23 regional Councils for the Deaf that, among other activities, provide interpreter services to the agency's clients. Councils employ and contract with individual interpreters to provide those services.

Interpreters can be licensed at five levels of ability ranging from Level I interpreters, who must be competent to translate 70 percent of basic, daily information, to Level V interpreters, who must be able to interpret with 90 percent proficiency, more complex and specialized information. The chart, *Licensed Interpreters in Texas*, shows the distribution of the varying levels of interpreters within the state.

Licensed Interpreters in Texas



As of August 1997
Total: 1,326

Councils pay interpreters based on licensure level, the higher the level the higher the hourly rate paid. The chart, *Payment Range to Interpreters Around the State, 1997*, shows the hourly rate for each interpreter level.¹ The maximum rate for interpreter services, \$30 per hour, is set in agency rule as required by its statute and only applies to state agencies, courts and political subdivisions. However, the private sector has also adopted that rate as an unofficial standard, and consistently bills the agency at this maximum rate.

Sunset staff examined the method used by the agency to regulate the rate charged for interpreter services. Since the agency is a large consumer of interpreter services, the review focused on the effect of rate regulation on the agency.

| Payment Range to Interpreters Around the State - 1997 | |
|---|-----------|
| Level I | \$9-\$10 |
| Level II | \$12-\$15 |
| Level III | \$15-\$18 |
| Level IV | \$18-\$21 |
| Level V | \$20-\$24 |

Findings

- ▼ **The Commission does not have a fee schedule for payment to interpreters as required by statute, but instead has established a maximum hourly rate to pay for interpreter services.**

| 1979 Interpreter Payment Schedule | |
|-----------------------------------|------|
| Level I | \$7 |
| Level II | \$9 |
| Level III | \$12 |
| Level IV | \$14 |
| Level V | \$16 |

Contractors routinely bill the agency for the maximum rate regardless of actual cost of services.

- ▶ The agency's enabling statute requires the agency to adopt by rule a schedule of fees paid to interpreters used by a state agency, court, or political subdivision.² This requirement was established to ensure that state agencies pay a reasonable minimum fee. According to the statute, the fee must be based on interpreter skill level. The Commission complied with this requirement in 1979 when it adopted the schedule shown at the left. However, the Commission dropped the schedule a year later when local Councils raised concerns that the fee schedule fixed prices unnecessarily.

- ▶ In 1991, the agency increased, in rule, the maximum hourly charge of \$30 to be paid for interpreter services to state agencies, courts or political subdivisions.³ The agency indicates that setting a maximum hourly rate fulfills the statutory requirement for a rate schedule, and encourages state agencies to request the highest level interpreter, instead of requesting the least expensive which may not be the most qualified. Sunset staff concluded that setting a maximum rate does not fulfill this statutory requirement.

- ▼ **The maximum price adopted by the agency has become the standard price charged by the agency's contractors, regardless of the level of service provided.**

- ▶ A review of Council invoices to the agency showed that Councils are routinely billing the maximum rate established in rule, \$30 per hour, despite the interpreter's level of skill. For example, Councils routinely bill the agency the \$30 per hour rate whether a Level I or a Level V interpreter provides services. Invoices showed that Councils use mostly Level I interpreters. Thus, the Councils in effect, retain the difference between what they receive from the State and what they pay the interpreter.

- ▶ The agency routinely pays the maximum charge, as billed by the Councils. As a result, the maximum rate has become the standard price charged for services. By routinely paying the maximum rate, the agency receives a lower level of service despite paying the maximum possible rate.

▼ **Removing the provision regarding interpreter rates will allow the Commission to base payment on the level of service, as is done across the country.**

- ▶ Other states with large populations of people who are deaf and hearing impaired, such as California and Florida, competitively procure interpreter services and do not establish a maximum fee for those services by rule. In addition, according to the National Registry of Interpreters for the Deaf, no other states establish a maximum rate for interpreter services in statute or rule and then routinely pay that amount.⁴
- ▶ Removing the statutory provision relating to fees for interpreters will remove any language that can be viewed as a standard for interpreter pricing. As a result, the agency will be free to negotiate prices for interpreter fees based on the skill level of the interpreter and lead to payment for actual services provided. Negotiating for services based on price and skill level will allow the agency to obtain the best value for interpreter services while still meeting the needs of persons who are deaf or hearing impaired.

Texas does not
competitively procure
interpreter services
like other large
states.

Conclusion

The Commission does not have a fee schedule for payment to interpreters as required by statute, but instead has established a maximum hourly rate to pay interpreters. In addition, the maximum price adopted by the agency has become the standard price charged by the agency's contractors, regardless of the level of service provided. No other state establishes a maximum fee for interpreter services and then routinely pays that maximum for those services. Removing the provision regarding interpreter rates will allow the Commission to base payment on the level of service and allow the agency to obtain the best value for interpreter services.

Recommendation

Change in Statute

- **Remove the provision requiring the Commission to establish a schedule regulating the cost of interpreter services.**

This recommendation would remove a confusing statutory provision that, although not adequately implemented, impedes the operations of the agency. Removing this provision would allow the agency to base payment for interpreter services on the level of service provided by its Councils. Removing the provision would also eliminate a barrier that prevents the agency from obtaining the best value for interpreter services.

Management Action

- **Repeal the Commission's rule establishing a maximum hourly rate for interpreter services.**
- **Include interpreter fees in contracts when negotiating with Councils for interpreter services.**

This management recommendation would ensure that a maximum hourly rate is no longer in agency rules. Removing this rule would leave the agency free to negotiate payment rates for interpreter services provided by its Councils. The agency would include in its Council contracts the specific rate the Councils would be paid for interpreter services. The rate could be based on hourly rates of payment or annual salaries of staff interpreters, and could include consideration of interpreter skill level. The rates should also include an easily identifiable and appropriate amount to cover the overhead of the Councils to provide the service.

Fiscal Impact

This recommendation should result in savings to the State. These savings will result from the agency no longer paying the maximum amount for interpreter services each time an interpreter is used. However, the amount of savings will depend on the number and skill level of interpreters used by the Councils. Any savings would then be available to purchase additional interpreter services.

¹ Average hourly rates were calculated based upon a 1997 statewide survey conducted by the Texas Commission for the Deaf and Hard of Hearing.

² Texas Human Resource Code Ann. Ch. 81, Sec. 81.006.

³ Texas Administrative Code, Ch. 181, Sec 181.830.

⁴ Telephone interview by Sunset staff with Daniel Burch, President, National Registry of Interpreters for the Deaf, Baton Rouge, Louisiana, August 19th, 1998.

Issue 2

Ensure Quality Services for Agency Clients Through Improved Contract Monitoring.



Background

To provide services for people who are deaf or hard of hearing, the Texas Commission for the Deaf and Hard of Hearing contracts with 23 private and public agencies, referred to by the agency as “Councils for the Deaf.” The 23 Councils include local service providers such as nonprofit agencies and local government health and human service agencies that provide an array of services to consumers who are deaf or hard of hearing in the regions across Texas. In fiscal year 1997, the agency’s direct service contract payments to the Councils totaled \$483,446, more than 35 percent of the agency’s budget. Through the Councils, the agency funds services such as communication access, which mostly includes interpreter services, the Senior Citizens Program, and the Information and Referral Programs. Of the three programs, communication access represents, by far, the greatest portion of the agency’s contract services.

The agency conducts on-site audits of each Council at least every two years, examining personnel systems, and documentation of client information and eligibility status relative to services purchased. Councils are required to submit annual renewal applications to continue providing services to clients. While the process of contract procurement is intended to be competitive, a limited number of Councils are available to deliver service for people who are deaf or hard of hearing.

In recent years, the Legislature has focused efforts on the evaluation of health and human service agencies’ contract administration. Areas of administration that have consistently shown weakness across several health and human service agencies have included the inclusion of performance measures in contracts and adequacy of monitoring, based on a series of State Auditor’s Office (SAO) reports and the 1996 General Investigating Committee’s report on contracting.^{1,2} Sunset staff compared agency monitoring of contracts with monitoring guidelines recently established by the Legislature.

The agency acts largely as a contract administration agency, and a recent examination by the SAO identified weaknesses in contract administration at

The agency delivers services through contracts with 23 private and public agencies known as “Councils for the Deaf.”

the agency. Thus, Sunset staff focused on the agency's contract administration processes, specifically contractor monitoring in the agency's largest program, communication access.³

Findings

Limited competition increases the need for monitoring to ensure quality of services.

▼ **Lack of competition between Councils increases the agency's need to adequately monitor contractor performance.**

- ▶ When contracts can be procured competitively, the agency ensures a certain level of quality through the application process by making the applying agencies compete with each other to deliver the best quality and best-value services. However, having a limited number of Councils to deliver services to people who are deaf or hard of hearing prevents true competition between contractors.
- ▶ In some rural areas of the state, only one Council may be able to deliver services to clients. However, in metropolitan areas, more providers may be available, but the need is greater because of the larger population. Because of the limited number of Councils to deliver services, the agency consistently awards contracts to most applicants. For example, in fiscal year 1997, the agency only denied funds for one agency out of 24 that applied.

▼ **The State Auditor's Office identified the need to develop risk-based contract monitoring, but the agency has not fully implemented this approach.**

- ▶ In a July 1997 report, the State Auditor's Office (SAO) identified a need for the agency to "establish a formal audit plan to provide oversight of the Councils."⁴ Part of the plan, as recommended, is to include "a schedule for site visits based on risk and date of last visit."⁵ Through risk-based assessment of the contracts, the agency could determine which contracts are in most need of monitoring and technical assistance, and target its resources accordingly.
- ▶ While the agency has worked with the SAO and the Health and Human Services Commission to develop a risk-based system for determining how often and when to monitor

contractors, no formal policies have been developed to date. The agency indicates it plans to monitor contractors based on the Auditor's recommendations, however its not yet documented this new system. Developing a formal policy for contract monitoring could provide an added level of assurance that the agency will monitor contractors in a fashion that complies with state law.

▼ **Agency efforts to improve contract monitoring, specifically the development of contractor monitoring tools, need further refinement.**

- ▶ Contract audit tools used by the agency to monitor contractor performance are not consistently linked to contract performance measures. For example, in the agency's largest program, communication access, interpreter service contractors are required to follow agency guidelines for interpreter assignments that ensure appropriately trained interpreters are sent on certain assignments, such as medical or legal interpreting. Councils are required to document instances where they deviate from the agency's recommended interpreter level for an assignment.
- ▶ Council audit tools do not include documentation for appropriateness of interpreter training levels sent on assignments by the contractor. In addition, Sunset staff's examination of 14 Council audits for fiscal year 1997 found that none of these audits document appropriate level of interpreters for assignments. Since interpreter services represent such a large part of agency expenditures, failure to document this vital contractor performance measure could result in inferior client service. If the agency develops contract monitoring tools that are consistently tied to contract performance measures, agency staff will be able to consistently hold contractors accountable to the best performance.

Monitoring tools need more focus on assessing performance quality.

Conclusion

Lack of competition between Councils increases the agency's need to adequately monitor contractor performance. A recent report from the SAO identified the need for the agency to develop risk-based contract monitoring, but the agency has not fully implemented this approach. Recent agency efforts to improve contract monitoring need further refinement and

documentation of formal policies. Specifically, contract monitoring tools must be consistently tied to contract performance measures to ensure that staff hold contractors accountable consistently.

Recommendation

Management Action

- **Require the agency to develop, in policy, a risk-based approach for contract monitoring.**

- **The agency should develop, by January 1, 2000:**
 - **contract monitoring tools that are linked to contract provisions, and**
 - **a schedule for conducting on-site monitoring visits that is based on a risk-assessment model.**

This recommendation would ensure that the agency establishes formal policies that incorporate state standards for contract administration, specifically contract monitoring. Documentation of these procedures is important to ensure that the agency consistently complies with state standards.

Issue 1 of this report addresses the incentive for Councils to send less qualified interpreters on assignment. This recommendation would require the agency to use improved performance monitoring to help prevent such potential abuses. The agency should improve its monitoring tools to ensure contract monitoring staff consistently look for areas of weakness or risk in contractor performance.

Because of the limited resources and expertise in contracting, the agency should continue to work with the SAO and Health and Human Services Commission to improve its contracting process. As a result of the recent legislation on health and human service contracting, the Health and Human Services Commission has convened a working group to provide assistance and continuity in contracting to health and human service agencies. The agency should make use of these resources to ensure it implements the most up-to-date policies for contract administration.

Fiscal Impact

Improved contractor oversight and development of formal contract monitoring policies should result in a positive fiscal impact to the State, and an improved level of service for clients. However, those savings will depend on the number of contracts and types of services for which the agency contracts. As a result, Sunset staff could not determine a specific amount of savings for this report.

¹ Office of the State Auditor, *Contract Monitoring of Purchased Services*, October 1994.

Office of the State Auditor, *Contract Administration at Selected State Agencies - Phase Three*, February 1996.

Office of the State Auditor, *Contract Administration at Selected State Agencies - Phase Four*, September 1996.

² Texas Senate and Texas House of Representatives, Joint General Investigating Committee, *Report on State Contracting*, October 14, 1996.

³ Office of the State Auditor, *Management Controls at the Controls at the Commission for the Deaf and Hard of Hearing*, July 1997.

⁴ Ibid.

⁵ Ibid.

Issue 3

Decide on Continuation of the Texas Commission for the Deaf and Hard of Hearing as a Separate Agency After Completion of Sunset Reviews of All Health and Human Service Agencies.



Background

The Legislature scheduled most of the State's health and human service agencies for Sunset review in 1999. Health and human services (HHS) is the second largest function of State government. With a combined appropriation of \$26.1 billion for the 1998-99 biennium, these agencies account for almost 30 percent of the state government's budget.

With most HHS agencies under review together, the Sunset Commission has an unprecedented opportunity to study how the State has organized this area of government. Currently, 13 separate agencies have primary responsibility to carry out the numerous state and federal programs, services, assistance, and regulations designed to maintain and improve the health and welfare of the citizens of Texas. Reviewing these agencies together will enable a look across agency lines — at types of services provided, types of clients served, and funding sources used. Assuming any organization changes are needed, this information will prove valuable in the analysis of how best to make those changes.

Central to the Sunset review of any agency is determining the continuing need for the functions it performs and whether the current agency structure is the most appropriate to carry out those functions. Continuation of an agency and its functions depends on certain conditions being met, as required by the Sunset Act. First, a current and continuing need should exist for the State to provide the functions or services. In addition, the functions should not duplicate those currently provided by any other agency. Finally, the potential benefits of maintaining a separate agency must outweigh any advantages of transferring the agency's functions or services to another agency.

The Sunset staff evaluated the continuing need for the Texas Commission for the Deaf and Hard of Hearing (the Commission) and its functions in light of the conditions described above. This approach led to the following findings.

The Texas Commission for the Deaf and Hard of Hearing is one of 13 health and human service agencies under Sunset review.

Findings

▼ Texas has a continuing need for the services provided by the Commission.

The agency's main purpose, facilitating communication access for Texans who are deaf or hard of hearing, needs to continue.

- ▶ The Commission is the state's main conduit for services to those persons who are deaf or hard of hearing. These services facilitate the interaction of persons with hearing disabilities within hearing society and allow hearing disabled people to achieve greater independence. The agency primarily provides for services to person with aural disabilities by contracting with 23 local Councils for the Deaf throughout the state.

These Councils provide direct services through three major programs to persons who are deaf or hard of hearing to ensure they can actively and independently participate in society. These programs include Communication Access Services, the Senior Citizens program, and the Information and Referral Program. Communication Access Services includes sign/oral interpretation. The Senior Citizen Program targets persons 60 years of age and older to receive coping skills training, independent living services and recreational activities. The Information and Referral Program provides information to individuals regarding services for people with deafness or hearing loss.

In fiscal year 1997, the agency served about 7,500 clients through its Councils and was appropriated \$1.4 million by the Legislature. About \$789,000 of that appropriation was General Revenue and about \$510,000 was from interagency contracts for interpreting services. The remainder of the Commission's funding comes from appropriated receipts and private donations.

- ▶ Now, as the agency approaches the close of the 1990s and the beginning of a new millennium, the Commission faces challenges brought on by an aging population. Many causes of deafness and hearing deterioration are age-related. As the Baby-Boom Generation ages, more Texans can be expected to seek services from the Commission and its Councils. Such a challenge will continue well into the next century.

▼ **While the agency's current functions should continue, organizational alternatives exist that should be explored.**

- ▶ The Commission is one of 13 separate agencies that perform the State's health and human service functions. These agencies' responsibilities are generally unique, but the types of services offered, clients served, and funding sources used are sometimes very similar. For example, the Texas Rehabilitation Commission has responsibility for operating the Deaf-Blind with Multiple Disabilities Program. This program is a Medicaid waiver program that provides residential support in apartments, group homes, or with a parent or guardian to persons who are deaf as well as blind and have another disability, usually mental retardation.
- ▶ Because of these similarities, many options to the current system have been and should continue to be considered. For example, the interim work of the Legislature during the past four years has yielded more than 550 recommendations for change in HHS policies and operations. Many of these recommendations have not been implemented and should be considered in the Sunset process.
- ▶ Continuation of an agency through the Sunset process hinges on answering basic questions about whether duplication of functions exists between agencies and whether benefits would result from consolidation or transfer of those functions. The Sunset staff has identified several instances where organizational change may be warranted. Examples include consolidation of core administrative functions, co-location of field offices, collapsing of contracting functions, better alignment of similar services to similar clients, and a close look at how planning and budgeting could be improved. These changes should be looked at before the Sunset Commission makes decisions to continue an HHS agency under review.

The Sunset
Commission should
decide on
continuation of the
agency once all HHS
agency review are
completed.

▼ **Continuation of the Commission as a separate agency should be decided after completion of all HHS agency Sunset reviews.**

- ▶ The Sunset reviews of the HHS agencies are scheduled for completion at various times before the end of 1998. The Sunset staff will use the results of this work in its review of the Health

and Human Services Commission, the umbrella agency for HHS. The staff will also study the overall organizational structure of this area of government. Finally, the staff will evaluate issues that cut across agency lines, such as the need for a single agency for long-term care, consolidation of services to persons with disabilities, the need for a single agency to administer Medicaid services, and streamlining regulatory functions.

- ▶ The Sunset Commission's schedule sets the review of the Health and Human Services Commission and HHS organizational and cross issues for the Fall of 1998. Delaying decisions on continuation of all HHS agencies, including the Commission for the Deaf and Hard of Hearing, until that time allows the Sunset staff to finish its work on all the agencies and base its recommendations on the most complete information.

Conclusion

Most of the State's health and human service agencies are currently under Sunset review. While these agencies serve many unique purposes, they also have many similarities that should be studied as areas for possible improvement through organizational change. This analysis should occur before decisions are made to continue the HHS agencies as separate entities, including the Texas Commission for the Deaf and Hard of Hearing.

Recommendation

Change in Statute

- **Decide on continuation of the Texas Commission for the Deaf and Hard of Hearing as a separate agency upon completion of Sunset reviews of all health and human service agencies.**

Sunset review of several other HHS agencies are ongoing. Sunset staff recommends that the Sunset Commission delay its decision on continuation of the Commission for the Deaf and Hard of Hearing as a separate agency until those reviews are completed. The results of each agency review should be used to determine whether changes are needed in the overall organization of health and human services.

The staff will issue a report to the Commission in the Fall of 1998 that will include recommendations for each HHS agency — to continue, abolish and transfer functions, or

consolidate specific programs between agencies. This report will also include, for possible action, three agencies under the HHS umbrella not scheduled for specific review this cycle, the Department of Protective and Regulatory Services, the Texas Commission on Alcohol and Drug Abuse, and the Texas Juvenile Probation Commission. These agencies were reviewed by the Sunset Commission in 1996 and continued by the Legislature in 1997. Possible reorganization of health and human services may affect the continuation of these agencies as independent entities.

ACROSS-THE-BOARD RECOMMENDATIONS

Background

AGENCY HISTORY

The needs of Texas' deaf population received formal attention in 1971 when the Legislature created the State Commission for the Deaf, and funded it during a special legislative session. The agency was charged with providing services to the state's population of people who are deaf. The original Commission was composed of six members, of which two members were deaf.

Over the next 26 years, the Legislature made a number of changes to the agency, including adding services for people who are hard of hearing, and changing its name to the Texas Commission for the Deaf and Hard of Hearing. Generally, these changes have expanded the duties of the agency to include providing services to people who are hard of hearing and regulation of interpreters. The chart, *The History of the Texas Commission for the Deaf and Hard of Hearing*, lists major changes that have occurred each legislative session since it was created.

An estimated 1.7 million Texans are deaf or hard of hearing. Before the Legislature added hard of hearing services to its responsibilities, the agency's estimated target population was about 50,000. The additional 1.65 million Texans who are hard of hearing have increased the workload and shifted efforts for the agency. While the community of people who are deaf or hard of hearing include people of all ages, most people who

| The History of the Texas Commission for the Deaf and Hard of Hearing | |
|--|--|
| 1971 62nd Legislature | <ul style="list-style-type: none"> The State Commission for the Deaf was created and funded the following year in a special session. The Commission is composed of six members, of which at least two are deaf. |
| 1979 66th Legislature | <ul style="list-style-type: none"> The Joint Advisory Commission on Educational Services for the Deaf recommends reorganization of the agency with expansion of the Commission to nine members, three of which had to be deaf. Authority is given to train and license interpreters for the deaf, develop a directory of qualified interpreters, and recommend a fee schedule for interpreter services. Services are expanded to include placing telecommunication devices for the deaf in state agencies and emergency response centers, and to develop a catalogue of resources for deaf persons. |
| 1991 72nd Legislature | <ul style="list-style-type: none"> Services for people who are hard of hearing are added, and the agency's name is changed to Texas Commission for the Deaf and Hearing Impaired. Responsibility for placing telecommunication devices for the deaf in state agencies and emergency response centers is removed to comply with the ADA. |
| 1995 74th Legislature | <ul style="list-style-type: none"> The agency's name changed to Texas Commission for the Deaf and Hard of Hearing to better reflect the population served. |
| 1997 75th Legislature | <ul style="list-style-type: none"> Duties of the agency are expanded by establishing a program to provide assistance for eligible individuals to obtain adaptive telephone equipment, and for the purposes of that program the agency is directed to serve individuals who are speech impaired. |

People Who are Deaf or Hard of Hearing

The unique disability for people who are deaf or hard of hearing is inaccessibility to communication with the hearing population. However, the deaf and hard of hearing populations have distinctly different disabilities.

People who are born deaf often learn sign language as their first language, which is based on concepts rather than grammar and sentence structure. The difference in syntax between signed and spoken language creates barriers to communication for this population. Functionally, a person who is deaf cannot understand speech, even with assistance from amplification.

The agency certifies deafness for anyone whose hearing loss is 55 decibels or greater in the best ear without correction, or a physician may certify a person is deaf when they do not meet the decibel requirement. For example, a student who is functionally deaf, and whose primary mode of communication in the classroom is visual, could be certified as deaf.

Individuals are considered hard of hearing if they receive some benefit from amplification assistance, but still experience barriers to communication. People who are hard of hearing have usually developed an understanding of the English language, and therefore have different communication assistance needs.

are hard of hearing are older adults who formerly had good hearing — a distinctly different population from people who are born deaf. The text box, *People Who are Deaf or Hard of Hearing*, defines these two disabilities, and describes the unique attributes of each population.

In July of 1990, Congress passed the Americans with Disabilities Act (ADA), and further shaped the role of the agency. Before the ADA was enacted, the agency's primary focus was to provide and pay for interpreter services for Texans who are deaf. Now, with the ADA, many of the professionals who once looked to the agency to provide interpreter services are required to

provide interpreters themselves for their clients who are deaf. The agency now finds its role is to advocate for individuals who are deaf and hard of hearing and to educate businesses and professionals about their responsibilities to deaf and hard of hearing clients under ADA regulations. The text box, *Americans with Disabilities Act*, gives more detail about this law.

The ADA has shifted the agency's focus toward educating the public about required accommodations for people who are deaf or hard of hearing.

Americans with Disabilities Act

The Americans with Disabilities Act (ADA), signed into federal law on July 26, 1990, prohibits discrimination against people with disabilities in employment, transportation, public accommodation, communications, and activities of state and local government. The Act also establishes telecommunication relay services.

Under the ADA, employers must have nondiscriminatory application procedures and qualification standards, and must make reasonable accommodation for an employee.

Further, any entity licensed to do business with, or serve the public, such as hotels, theaters, restaurants, shopping malls, office buildings, and private social agencies must assure that service is provided without discrimination, and auxiliary aids are provided if not unduly burdensome. State and local governments have the same responsibility.

POLICYMAKING BODY

The agency is governed by a nine-member Commission appointed by the Governor with the advice and consent of the Senate. The Commission is comprised of three members who are deaf or hard of hearing, two parents of persons who are deaf or hard of hearing, two professionals serving persons who are deaf or hard of hearing, and two members from the general public. Further, a majority of the members must be deaf.¹ Currently, the Commission has three vacancies awaiting appointment. The chart, *Commission Members*, lists the current members and the area of the state where they live.

Commission Members

Eva D. Williams, Acting Chair (EL Lago)
 Robin Riccardi, Secretary (Shallowater)
 Douglas Bush (Houston)
 Linda Thune (Austin)
 Jean Matney (Fort Worth)
 Benna Timperlake (Corpus Christi)

The Commission has five advisory committees appointed by the Commission, as shown in the chart, *Advisory Committees*, to assist in gathering information and making decisions for specific needs of deaf and hard of hearing populations. Two of these, the Tri-Lingual Task Force and the Educational Interpreter Task Force were inactive in 1996 and 1997 because of a lack of funding and authority for travel expenses. Two other advisory committees, the Deafness Task Force and the Hard of Hearing Task Force, each held meetings during 1996 and 1997 without travel compensation. Travel authority has been restored for all advisory committees during the current biennium.

Advisory Committees

1. Tri-Lingual Task Force
2. Educational Interpreter Task Force
3. Deafness Task Force
4. Hard of Hearing Task Force
5. Board of Evaluation of Interpreters

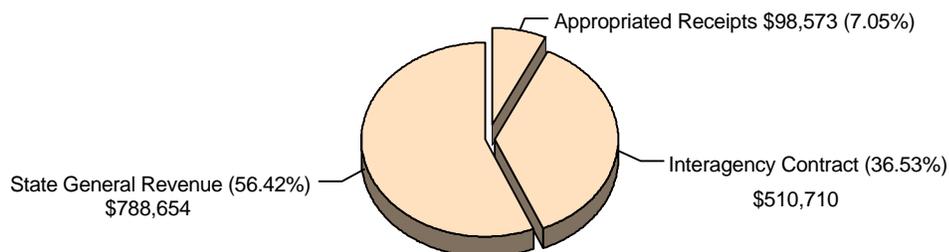
The fifth advisory committee, the Board for Evaluation of Interpreters (BEI), ensures that interpreters in Texas meet minimum standards and increases accessibility into the field of interpreting. To accomplish this, the BEI meets to review program policies and interpreter testing procedures, plan test materials development, and make recommendations on these matters to the Commission for consideration. The BEI also reviews each candidate's testing scores and makes recommendations to the Commissioners regarding the issuance or denial of licensure.

FUNDING

Revenues

The agency is funded almost exclusively by state funds and does not receive any federal funds. In fiscal year 1997, the agency received approximately \$1.4 million in funding from the State and other sources.

Sources of Revenue Fiscal Year 1997



**Total Revenues
\$1,397,937**

The chart, *Sources of Revenue — Fiscal Year 1997*, shows the funding amounts and percentages of each funding source.

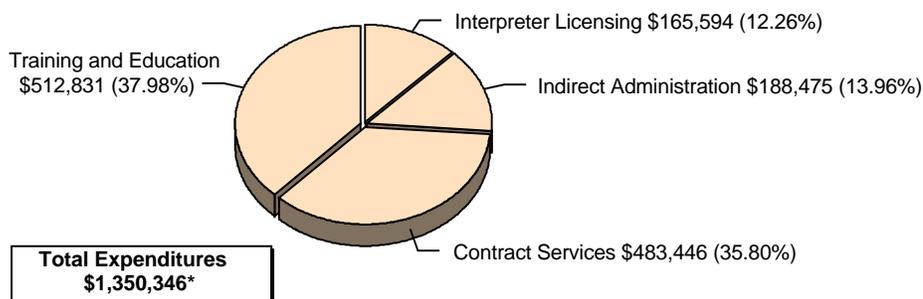
Thirty-six percent of the agency’s budget comes from interagency contracts, primarily with other health and human

service agencies, such as the Texas Department of Health and the Texas Workforce Commission, for interpreting services. In addition to General Revenue, the agency receives private funds of approximately \$20,000 each year to fund Camp SIGN, a summer camp for Texas children who are deaf or hard of hearing. The agency does not receive any federal funds, because no such funds are available to the agency.

Expenditures

The agency expended more than \$1.3 million in fiscal year 1997 on its four budget strategies. The chart, *Expenditures by Strategy — Fiscal Year 1997*, shows the breakdown of the agency’s actual expenditures by strategy for fiscal year 1997.

Expenditures by Strategy Fiscal Year 1997



**Total Expenditures
\$1,350,346***

*The \$47,591 discrepancy between the charts is accounted for by \$20,000 of private funds that is carried over for Camp SIGN, approximately \$22,000 of unexpended funds for interpreter services from interagency contracts, and approximately \$5,000 of unexpended licensing fees from the Interpreter Program.

While the previous chart indicates broad classifications of spending, the chart, *Expenditures by Program — Fiscal Year 1997*, provides more detail about the services funded by the agency.

HUB Expenditures

The Legislature encourages agencies to increase their use of Historically Underutilized Businesses (HUBs) in purchasing goods and services, and requires the Sunset Advisory Commission to consider agencies' compliance with laws and rules regarding HUB use in its reviews. In 1997, the agency purchased 55.5 percent of goods and services from HUBs, and exceeded statewide goals in the two categories with qualifying purchases. The chart, *Purchases from HUBs — Fiscal Year 1997*, provides detail on HUB spending by type of contract and compares these purchases with the statewide goals.

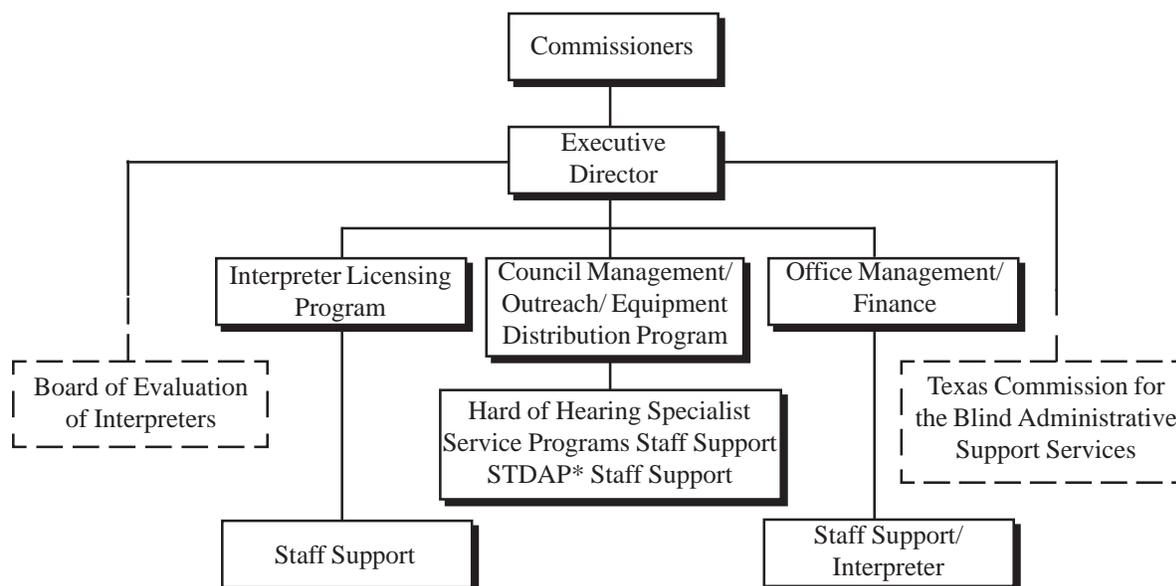
| Expenditures by Program Fiscal Year 1997 | |
|---|---------------------|
| | Expenditures |
| Contract Services | |
| Communication Access Services | \$187,867 |
| Senior Citizens Program | \$106,675 |
| Mentor Program | \$23,650 |
| Early Intervention & Prevention | \$20,000 |
| Information and Referral | \$14,462 |
| Training and Education | |
| Interagency Contracts | \$363,671 |
| Camp SIGN | \$17,645 |
| Special Needs | \$12,490 |
| Relay Ambassador Program | \$4,641 |
| Total | \$751,101 |

| Purchases From HUBs Fiscal Year 1997 | | | | |
|---|-----------------------|---------------------------|----------------|-----------------------|
| Category | Total \$ Spent | Total HUB \$ Spent | Percent | Statewide Goal |
| Heavy Construction | N/A | N/A | N/A | 11.9% |
| Building Construction | N/A | N/A | N/A | 26.1% |
| Special Trade | N/A | N/A | N/A | 57.2% |
| Professional Services | N/A | N/A | N/A | 20.0% |
| Other Services | \$158,702 | \$92,830 | 58.4% | 33.0% |
| Commodities | \$25,670 | \$9,420 | 36.6% | 12.6% |
| Total | \$184,372 | \$102,250 | 55.5% | |

ORGANIZATION

In 1997, the agency employed nine staff including the Executive Director, all located in the main Austin office. Three employees work on the 15 direct service programs administered by the agency including services for people who are hard of hearing, and two staff operate the interpreter licensing program. Four administrative staff, including the Executive Director, divide their time among all of the programs. The chart, *Texas Commission for the Deaf and Hard of Hearing Organizational Chart*, illustrates the agency's organizational structure.

Texas Commission for the Deaf and Hard of Hearing Organizational Chart



* Specialized Telecommunications Devices Assistance Program

The agency is subject to the General Appropriations Act, including provisions that set employment goals for minorities and women by specific job category. These goals are a useful measure of diversity and an agency's commitment to developing a diverse workforce. The chart, *Texas Commission for the Deaf and Hard of Hearing Equal Opportunity Statistics — Fiscal Year 1997*, shows a comparison of the agency's workforce composition to the state's minority civilian labor force. While the agency does not meet most of the goals, the small size of the agency makes it difficult to meet these goals since each individual employee represents more than 10 percent of the agency. Although not accounted for in the equal opportunity statistics required by the General Appropriations Act, 44 percent of the agency staff are deaf or hard of hearing.

The General Appropriations Act requires the agency to contract with the Texas Commission for the Blind (TCB) to perform administrative support functions, such as contract administration and accounting. Accordingly, through a rider, \$70,000 is transferred to TCB from the agency's general revenue funds for fiscal years 1998 and 1999.² For the past five years, TCB has provided administrative services for the agency, such as clerical, electronic filing, technical assistance, accounting, purchasing, information resources, and maintenance services.

| Texas Commission for the Deaf and Hard of Hearing Equal Employment Opportunity Statistics Fiscal Year 1997 | | | | | | | |
|--|--------------------|--------------------------------|------------------------------|----------|------------------------------|--------|------------------------------|
| Job Category | Total Positions | Minority Workforce Percentages | | | | | |
| | | Black | | Hispanic | | Female | |
| | | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % | Agency | Civilian Labor Force % |
| Officials/Administration | 2 | 0% | 5% | 0% | 8% | 0% | 26% |
| Professional | 4 | 11% | 7% | 0% | 7% | 33% | 44% |
| Technical | NA | | | | | | |
| Protective Services | NA | | | | | | |
| Para-Professionals | 2 | 0% | 25% | 0% | 30% | 22% | 55% |
| Administrative Support | 1 | 0% | 16% | 0% | 17% | 11% | 84% |
| Skilled Craft | NA | | | | | | |
| Service/Maintenance | NA | | | | | | |

The agency does not have regional offices, rather, to deliver services to clients, it contracts with 23 private and public agencies, referred to by the agency as "Councils." The 23 Councils include local service providers such as nonprofit agencies and local government health and human service agencies that provide an array of services to consumers who are deaf or hard of hearing. The map, *Councils for the Deaf*, shows the distribution of the Councils throughout the State.

AGENCY OPERATIONS

Direct Services

The agency ensures numerous services are delivered to clients who are deaf or hard of hearing, primarily through contracts with its 23 Councils. The Councils include nonprofit organizations and local government health and human service agencies funded through a number of sources such as national association grants, local taxes, and private donations.

Local agencies that serve deaf and hard of hearing consumers may compete, through a request for proposal (RFP) process for contract awards every two years for three types of major services -- communication access services, information and referral, and senior citizen services. For minor programs, such as the Early Intervention Program and the Interpreter Mentor Program, the agency awards fewer contracts due to less funding. The chart, *Direct Service Programs and Contracts*, lists the major and minor programs for which the agency contracts as of fiscal year 1997.

The agency funds 23 local Councils to provide services to Texas' deaf and hard of hearing population.

Councils for the Deaf



● Councils for the Deaf - some larger cities have more than one contract service provider

Bold marked boundaries and numbers indicate health and human service uniform regions

| Direct Service Programs and Contracts | | | |
|--|---|------------------------------------|-----------------------------------|
| Program | Benefits | Number/Amounts of Contracts | Clients Served FY 97 |
| Major Programs | | | |
| Communication Access Services | Sign language and oral interpreting and Computer Assisted Realtime Translation (CART) services to persons who are deaf or hard of hearing for access to essential life services and community participation. | 20 \$187,867 | 5,845 |
| Senior Citizens Program (SCP) | Coping skills training, independent living services, limited case-management, and recreational activities targeted toward persons 60 or older. | 13 \$106,675 | 1,418 |
| Information and Referral | Referrals to sources of information and additional services for people with deafness or hearing loss. | 20 \$14,462 | 250 hours with clients |
| Minor Programs | | | |
| Early Intervention Program (EIP) | Funds various projects each year to identify individuals with possible hearing loss and provide information about available resources for assistance education and prevention of hearing loss targeting high-risk populations for hearing loss. | 3 \$20,000 | all Texans |
| Interpreter Intern/Mentor Program | Funds locals service providers for advanced training of interpreters to upgrade license. | 3 \$23,650 | 16 mentors trained 13 students |

Starting in fiscal year 1998, the agency added three programs listed in the chart, *Programs Started in Fiscal Year 1998*. In 1997, the agency requested special funding for a new project that would place regional specialists in each region of the state to coordinate services and resources among numerous state agencies for agency clients. Although the Legislature did not fund the program, the Texas Rehabilitation Commission provided the agency \$50,000 per year to begin a pilot project in Tyler to evaluate the effectiveness of the program.

| Programs Started in Fiscal Year 1998 | | | |
|---|--|------------------------------------|-----------------------------|
| Program | Benefits | Number/Amounts of Contracts | Clients Served FY 97 |
| Regional Specialist Pilot Program (case managers) | Advocacy and deafness specialist services for clients in the region with a position fully funded by the agency. | 1 \$50,000 | 165 |
| Specialized Telecommunications Devices Assistance Program | A voucher program that provides financial assistance to individuals who are deaf, hard of hearing, deaf-blind, or speech impaired to purchase specialized equipment for access to telephone services. This program is cooperative with the Public Utility Commission, which regulates electric and telecommunications utilities. | 3 \$15,000 | 1,500 as of 8/98 |
| Hearing Aid Program | Provides hearing screening; provides hearing aids to clients with a low income with no other means to purchase to hearing aid. | 3 \$30,00 | 53 |

In addition to the services provided through contracts, the agency also provides some services directly, such as Hard of Hearing Services and Service Provider Training for the 23 Councils. The chart, *Services Provided Directly by the Texas Commission for the Deaf and Hard of Hearing*, lists the services delivered by the agency, including a description of the program and the number of clients served.

| Services Provided Directly by Texas Commission for the Deaf and Hard of Hearing | | |
|--|--|---------------------------------|
| Program | Benefits | Clients Served FY 97 |
| Camp SIGN | A week long summer training and recreational program for children between eight and 17 who are deaf or hard of hearing. | 125 |
| Certification of Deafness | Certification provided to qualifying applicants for tuition waiver at state supported post-secondary colleges and universities in Texas. | 274 |
| Hard of Hearing Services | Training, information, referral, and adaptive equipment demonstrations to persons who are hard of hearing. | 2,311 |
| Interpreter Outreach and Training | Agency sponsored training for interpreters, including CEUs. | 24 workshops |
| Relay Ambassador Program | Funded by Relay Texas to provide training and information on Relay Texas services to individuals who are hard of hearing. | 6 presentations 69 people |
| Service Provider Training | Annual training provided for contracted service providers regarding changes in rules or law, and other service delivery issues. | 23 Councils |
| Vehicle Safety Communication Stickers | Provided to indicate that a driver is deaf or hard of hearing. | 33 |

CONTRACTING AND REIMBURSEMENT

The agency contracts with each of the 23 Councils through a competitive request for proposal (RFP) process. Councils can contract to provide any of the direct services such as interpreter services, information and referral services, or senior citizen services.

Allocation of Funds

In awarding contracts to local providers, the agency uses different methods of determining the amount of funding for each contractor. Councils are generally reimbursed for services by submitting monthly reports that indicate the number of clients served for each contracted program.

For programs, such as the Senior Citizen Program and Information and Referral that have fewer available funds, the agency divides the money evenly between the programs that request funding on a per client basis, up to the amount requested. State funds rarely cover all of the Councils' expenses for these programs.

For communication access services, the agency uses a formula based on regional population, the estimation of the number of people in the region with hearing impairments, and the amount of funds available. Entities and individuals doing business with people who are deaf or hard of hearing, such as physicians or attorneys, are responsible, under the ADA, for providing adequate communication resources for clients. However, some of these entities or individuals may not be aware of ADA requirements or may not have the resources to pay for an interpreter. In these situations, the Council pays for the interpreter services and the agency reimburses the Council at a set rate of \$30 per hour.

The agency also makes some contracts available on a limited basis because of funding constraints, such as the Early Intervention Program and the Interpreter Intern Mentor Program. These contracts are more competitive, and funds are awarded on the basis of the proposal and available funds.

The agency audits the Councils at least every two years, examining personnel systems, documentation of client information and eligibility status. Councils are required to submit annual renewal applications to continue providing services to clients. While the process of contract procurement is intended to be competitive, a limited number of service providers are available to deliver services for people who are deaf or hard of hearing, which limits competition.

Interagency Contacts

In addition to contracts with regional Councils, the agency contracts with state agencies to provide interpreter services. Currently, the agency contracts with five state agencies -- the Texas Department of Mental Health and Mental Retardation, the Texas Department of Health, the Texas Department of Criminal Justice, the Texas Commission for Alcohol and Drug Abuse, and the Texas Workforce Commission.

Each year the contracting agencies estimate the amount of money needed for interpreter services, and generally pay the agency on a quarterly basis. Each month, the agency receives an invoice from the Councils for payment of services provided to the state agencies. The agency reimburses the Council for the month's services, then submits an invoice to the contracting state

Council programs are funded through formula, equal distribution, and competitively awarded grants.

Through interagency contracts, the agency ensures interpreter services are available to other state agency consumers.

The Board for Evaluation of Interpreters licenses 1,326 interpreters in Texas.

agencies for reimbursement plus administrative fees, and deducts the amount from the contracting agency's quarterly balance.

This system has created some budget uncertainty for the agency since the Councils are reimbursed before payment is received from the state contracted agencies. Also, since the amount of service cannot be accurately predicted, the agency is unable to expend all administrative fees collected due to fiscal year time restraints.

Board for Evaluation of Interpreters

BEI Board Members

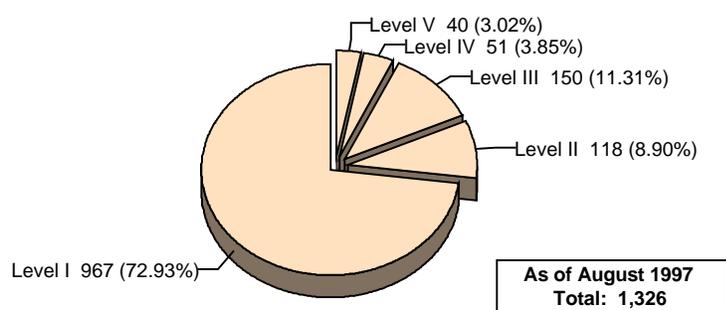
JoAnn Lankenau, Chair (Kingwood)
 Laura Metcalf, Vice-Chair (San Antonio)
 Lucille Koehl (Houston)
 Laura Hill (Fort Worth)
 Brian Kilpatrick (Houston)
 Susan Tiller (Corpus Christi)
 Alan Sessions (Austin)

The Board for Evaluation of Interpreters (BEI) was created in 1980 and is composed of seven licensed interpreters who, together with a staff of two agency employees, administer the licensing of interpreters in Texas and advise the agency on related matters. The Board is appointed by the Commission and charged with prescribing qualifications for each of five levels of licensure. The Board also compiles a statewide registry of interpreters by skill level and makes recommendations guiding selection and use of interpreters.

Texas courts and the Texas Education Agency have legal mandates that their interpreters be licensed either by the state or nationally by the Registry for Interpreters for the Deaf. Interpreters can be licensed at five levels of ability ranging from Level I interpreters, who must be competent to translate 70 percent of basic, daily information, to Level V interpreters, who must be able to interpret with 90 percent proficiency, more complex and specialized information.

Interpreter licenses are valid for five years and are renewable if continuing education requirements of 50 hours over the five years are met. The chart, *Licensed Interpreters in Texas*, shows the distribution of the varying levels of interpreters.

Licensed Interpreters in Texas



The BEI program offers testing at 13 sites across Texas at least once each year, and several times per year in Austin, Dallas, and Houston. In total, the agency offers between 45 and 50 testing opportunities per year, with between 450 and 475 candidates taking the test each year.

Testing costs a candidate between \$95 and \$120 depending on the level of examination applied for and includes a written examination on the interpreters code of ethics. The written portion of the test is scored on-site, and reported to the candidate. The written portion is followed by a video-taped performance examination in which the candidate must interpret both spoken language to sign-language, and sign-language to speech. The video tapes of the candidates are scored by a panel of two to four evaluators who must be at least Level III interpreters and are paid \$25 to \$45 per evaluation, depending of the level of testing for the candidate. If the first team of evaluators is unable to reach a consensus on whether the candidate passed the exam, a second team of evaluators will score the videotape.

Statute requires that the BEI report results to a candidate within 60 days. If scoring takes longer, the agency must contact the candidate about the delay. If the delay will be longer than 90 days, the agency must notify the candidate of the reason for the delay.³ Once the candidate passes the test, the license awarded is valid for five years, but must be renewed annually for a \$25 fee.

INTERPRETER COMPLAINT RESOLUTION

If the agency receives a formal complaint on an interpreter, the complainant is informed in writing that the complaint has been received. A certified letter is sent to the defendant that includes a copy or summary of the complaint, a summary of the investigative process, and a copy of the Board of Evaluation of Interpreter Rules of Operation. Agency staff then conduct a preliminary investigation in an attempt to verify the allegations. An informal hearing may be offered for information purposes and to allow the defendant to present their views regarding the allegations.

If the preliminary investigation finds the allegations may have merit, a full investigation is conducted. The full investigation must be complete within 45 days of the date the formal complaint is filed with the agency. The results of the investigation are reviewed by legal counsel and presented to the BEI, which then makes recommendations to the Commission for disciplinary action, if warranted. The defendant is notified of the pending action and is given the opportunity for a formal hearing. The Commission makes the final decision for any complaint action. The defendant can appeal the decision through a referral to the State Office of Administrative Hearings. The chart, *Board of Evaluation of Interpreters — Complaint Resolution*, shows the number of complaints received for the last three fiscal years.

| Board of Evaluation of Interpreters Complaint Resolution | | | |
|---|--------------|--------------|--------------|
| | FY 95 | FY 96 | FY 97 |
| Pending from previous years | 2 | 2 | 3 |
| Received during the fiscal year | 1 | 6 | 0 |
| Dropped | 0 | 0 | 0 |
| Disciplinary action taken | 0 | 0 | 1 |
| Average time to resolution | 60 days | 369 days | 413 days |
| Total Complaints Resolved | 1 | 5 | 3 |

¹ Texas Human Resources Code Ann. ch. 81, sec. 81.002.

² Texas Legislature, General Appropriations Act, 75th Leg., Art. II, *Commission for the Deaf and Hard of Hearing*, Rider 2.

³ Texas Human Resources Code Ann. ch. 81, sec. 81.0071.

**TEXAS COMMISSION FOR THE
DEAF AND HARD OF HEARING**

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